IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1639 OF 2006

Shri Dunkley Peter Robert ...Applicant

V/s

The State of Maharashtra ...Respondent.

Mr. A.P. Mundergi for the applicant.
Ms. Rajeshree M.Gadhvi, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 28th April, 2006

P.C.

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with the offence punishable under the NDPS Act. The applicant is a citizen of UK and he came to India as a tourist. It is alleged that the applicant, while he was staying at Goa, sent a parcel to UK at his home address. The parcel contained 600 grams of Charas. The applicant, thereafter, went to Thailand and he arrived from Thailand on 12/1/2006 at Mumbai. He was immediately detained at the Airport by the Officers of Air Intelligence Unit and was placed under arrest for the alleged offence punishable under the NDPS Act. It is

alleged by the prosecution that when the packet which was sent by the applicant was opened, it was found that it contained 600 grams of Charas. This contraband was recovered by the Officers of the postal unit. After the arrest of the applicant, he admitted that he had sent the said packet and that it was meant for his personal consumption.

3. The learned Counsel appearing on behalf of the applicant submitted that since the quantity which was allegedly recovered from the applicant is less than a commercial quantity, the bar under section 37 of the NDPS Act is not attracted and, therefore, the applicant is entitled to be released on bail. He submitted that though the applicant is a British National, his mother is of Indian origin and he can furnish local surety. The affidavit of one David has been filed in which it is stated that he is ready to stand as a surety if the bail is granted to the applicant.

4. The learned APP for the State submitted that the anxiety of the prosecution is that the applicant should not abscond, if the bail is granted to him.

5. In the present case, since the quantity which is found is less than commercial quantity, in my view, bail can be granted subject to certain stringent conditions being imposed on the applicant.

6. The applicant be released on bail in the sum of Rs 50,000/- with one or two local sureties in the like amount. The applicant shall give his new residential address to the Jail Superintendent before his release. The applicant shall report to the Inspector of Customs Narcotic Cell, Customs (Prev) Collectorate New Customs House, Mumbai 400003 once in a week. The applicant shall not leave Mumbai without the prior permission of this Court.

7. Trial is expedited. Liberty to the applicant to apply for fixed date of hearing.

8. The learned Counsel for the applicant submits that the passport of the applicant is already handed over to the respondent No.2.

9. Application is accordingly disposed of.

V.M. KANADE, J.